



DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-909]

Barium Chloride from India: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 1, 2022.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold at (202) 482-1221 and Harrison Tanchuck at (202) 482-7301, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On January 12, 2022, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of barium chloride from India, filed in proper form on behalf of Chemical Products Corporation (the petitioner), a domestic producer of barium chloride.¹ The Petition was accompanied by an antidumping duty (AD) petition concerning imports of barium chloride from India.²

On January 14 and 19, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petition.³ The petitioner filed responses to these requests on January 19 and 24, 2022.⁴

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties on Barium Chloride from India," dated January 12, 2022 (the Petition).

² *Id.*

³ See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Barium Chloride from India: Supplemental Questions," dated January 14, 2022; and "Petition for the Imposition of Countervailing Duties on Imports of Barium Chloride from India: Supplemental Questions," dated January 19, 2021.

⁴ See Petitioner's Letters, "Barium Chloride from India: Response to Supplemental Questionnaire on Volume I of the Petition (General Issues and Injury Information)," dated January 19, 2022 (General Issues Supplement); and "Barium Chloride from India: Response to Supplemental Questions," dated January 24, 2022.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of India (GOI) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of barium chloride in India, and that imports of such products are materially injuring, or threatening material injury to, the barium chloride industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition was accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested CVD investigation.⁵

Period of Investigation

Because the Petition was filed on January 12, 2022, the period of investigation (POI) for this CVD investigation is January 1, 2021, through December 31, 2021, pursuant to 19 CFR 351.204(b)(2).

Scope of the Investigation

The product covered by this investigation is barium chloride from India. For a full description of the scope of this investigation, *see* the appendix to this notice.

Comments on Scope of the Investigation

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁶ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments

⁵ See "Determination of Industry Support for the Petitions" section, *infra*.

⁶ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

include factual information,⁷ all such factual information should be limited to public information. To facilitate preparation of its questionnaire, Commerce requests that all interested parties submit scope comments by 5:00 P.M. Eastern Time (ET) on February 22, 2022, which is the next business day after 20 calendar days from the signature date of this notice.⁸ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 4, 2022, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.⁹ An electronically-filed document must be received successfully in its entirety by the time and date on which it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁰

⁷ See 19 CFR 351.102(b)(21) (defining "factual information").

⁸ The deadline for comments falls on February 21, 2022, which is a federal holiday. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day (in this instance, February 22, 2022). See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005) (*Notice of Clarification*).

⁹ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

¹⁰ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOI of the receipt of the Petition and provided an opportunity for consultations with respect to the Petition.¹¹ Commerce held consultations with the GOI on January 27, 2022.¹²

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹³ they do so for different

¹¹ See Commerce’s Letters, “Countervailing Duty Petition on Barium Chloride from India: Invitation for Consultations to Discuss the Countervailing Duty Petition,” dated January 13, 2022.

¹² See Memorandum, “Countervailing Duty Petition on Barium Chloride from India: Consultations with Officials from the Government of India,” dated January 27, 2022.

¹³ See section 771(10) of the Act.

purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁴

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁵ Based on our analysis of the information submitted on the record, we have determined that barium chloride, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁶

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of the Investigation," in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2021.¹⁷ The petitioner provided information from the ITC's fifth sunset review of barium chloride from the People's Republic of China, published in June 2021, in which the ITC found that Chemical Products Corporation was the only domestic producer of barium chloride;

¹⁴ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989)).

¹⁵ See General Issues Supplement at 2-3 and Exhibit GEN-3.

¹⁶ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Countervailing Duty Investigation Initiation Checklist: Barium Chloride from India (CVD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Barium Chloride from India (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS.

¹⁷ See General Issues Supplement at 4.

therefore, the Petition is supported by 100 percent of the U.S. industry.¹⁸ We relied on data provided by the petitioner for purposes of measuring industry support.¹⁹

Our review of the data provided in the Petition, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²⁰ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²¹ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²² Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.²³

Injury Test

Because India is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

¹⁸ See Petition at Volume I at I-2 through I-4; *see also* General Issues Supplement at 3-4 and Exhibit GEN-3 (containing *Barium Chloride from China*, Inv. No. 731-TA-149 (Fifth Review), USITC Pub. 5203 (June 2021) at 7).

¹⁹ See Petition at Volume I at I-2 through I-4; *see also* General Issues Supplement at 3-4 and Exhibit GEN-3. For further discussion, *see* Attachment II of the CVD Initiation Checklist.

²⁰ See Attachment II of the CVD Initiation Checklist; *see also* section 702(c)(4)(D) of the Act.

²¹ See Attachment II of the CVD Initiation Checklist.

²² *Id.*

²³ *Id.*

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁴

The petitioner contends that the industry's injured condition is illustrated by significant volume of subject imports; increasing market share of subject imports; underselling and price depression and/or suppression; inventory levels; declines in production, shipments, and revenues; and lost sales and revenues.²⁵ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁶

Initiation of CVD Investigations

Based upon the examination of the Petition and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of barium chloride from India benefit from countervailable subsidies conferred by the GOI. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of these initiations.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 42 of the 43 alleged programs. For a full discussion of the basis for our

²⁴ See Petition at Volume I at I-10 and Exhibit I-9; *see also* General Issues Supplement at 5 and Exhibit GEN-4.

²⁵ See Petition at Volume I at I-7 through I-30 and Exhibits I-5 and I-8 through I-12; *see also* General Issues Supplement at 2-3, 5 and Exhibits GEN-2 and GEN-4.

²⁶ See CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Barium Chloride from India (Attachment III).

decision to initiate on each program, *see* India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

In the Petition, the petitioner named 22 companies in India as producers/exporters of barium chloride.²⁷ Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation.

In the event Commerce determines that the number of Indian producers or exporters is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of barium chloride from India during the POI under the appropriate Harmonized Tariff Schedule of the United States subheading listed in the “Scope of the Investigation,” in the appendix.

On January 26, 2022, Commerce released CBP data for U.S. imports of barium chloride from India under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of this investigation.²⁸ Comments on CBP data and respondent selection must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, via ACCESS no later than 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. We intend to select respondents within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce’s website at <http://enforcement.trade.gov/apo>.

²⁷ See Volume I of the Petition at I-7 and Exhibit I-4.

²⁸ See Memorandum, “Countervailing Duty and Antidumping Duty Petitions on Granular Polytetrafluoroethylene Resin from India: Release of Customs Data from U.S. Customs and Border Protection,” dated February 12, 2021.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOI via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of barium chloride from India are materially injuring, or threatening material injury to, a U.S. industry.²⁹ A negative ITC determination will result in the investigation being terminated.³⁰ Otherwise, this CVD investigation will proceed according to the statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce’s regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³¹ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the

²⁹ See section 703(a) of the Act.

³⁰ *Id.*

³¹ See 19 CFR 351.301(b).

factual information seeks to rebut, clarify, or correct.³² Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to submitting factual information in this investigation.³³

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁴ Parties must use the certification formats

³² See 19 CFR 351.301(b)(2).

³³ See 19 CFR 351.301; *see also Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

³⁴ See section 782(b) of the Act.

provided in 19 CFR 351.303(g).³⁵ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letters of appearance).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 1, 2022.

Lisa W. Wang,
Assistant Secretary
for Enforcement and Compliance.

³⁵ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Appendix

Scope of the Investigation

The merchandise covered by this investigation is barium chloride, a chemical compound having the formulas BaCl_2 or $\text{BaCl}_2 \cdot 2\text{H}_2\text{O}$, currently classifiable under subheading 2827.39.4500 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. 2022-02559 Filed: 2/7/2022 8:45 am; Publication Date: 2/8/2022]